

FILED
U.S. DISTRICT COURT
BELL COUNTY, TN

2008 SEP 10 AM 10:19

CLERK
SO. DIST. OF GA.

**United States District Court
for the Southern District of Georgia
Brunswick Division**

BRUCE BERNARD TOWNSEND,

Plaintiff,

vs.

CIVIL ACTION NO.: CV207-043

JOSE M. VAZQUEZ; HENRY RUIZ;
Lt. FANNUCCI; Mrs. HARRIS;
SCOTT SCHLEDER; Lt. R. MAULDIN;
Chaplain O'NEIL; MICHAEL B.
COOKSEY; CHRISTOPHER
ERLEWINE; SUSAN VAN BALAAN;
ROBERT McFADDEN; JOHN M.
VANYUR; KATHLEEN M. KEENEY;
VAN VANDIVER; PAUL KENNEDY;
RAY HOLT; Mr. SANTIAGO, and
Lt. STERN,

Defendants.

ORDER

Presently before the Court are Plaintiff's Objections to the Magistrate Judge's Report and Recommendation. In his Objections, Plaintiff asserts the Defendants defaulted on his claim that he allegedly received a head injury as a result of being denied a religious diet because the Defendants did not raise this issue in their Motion. Plaintiff's assertion in this regard indicates he has misconstrued the Magistrate Judge's conclusion on this issue. The Magistrate Judge found Plaintiff's claims against

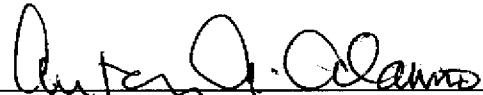
Defendant Ruiz to be speculative, including the claim that Defendant Ruiz's order to other staff not to accommodate Plaintiff's request for a religious diet left him so weak from not eating that he received a head injury. The undersigned concurs with the Magistrate Judge's recommended disposition of Plaintiff's claims against Defendant Ruiz. Defendants did not "default" on this claim.

Plaintiff also contends there is a deficient governmental custom or policy in place which denied him the freedom to practice his religion and that it is on this basis Defendants Vazquez, Kennedy, Holt, O'Neill, Van Baalen, Ruiz, Santiago, Erlewine, and Cooksey are liable for the violations of his constitutional rights. Plaintiff's contentions in this regard are unsupported by any facts, nor does Plaintiff identify this governmental policy which allegedly resulted in these Defendants' unconstitutional conduct.

Plaintiff's remaining Objections largely consist of the same assertions and phraseology set forth in his original Complaint and in his documents in opposition to Defendants' Motion. Plaintiff's Objections are without merit. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. The portion of Defendants' Motion concerning improper service is **DISMISSED** as moot. The portion of Defendants' Motion based on Rule 8(a) of the Federal Rules of Civil Procedure is **DENIED**. The remaining portions of Defendants' Motion are **GRANTED**. Plaintiff claims against the Federal Correctional Institution in Jesup, Georgia, the Bureau of Prisons, and Defendants Van Vandivier, John M. Vanyur, Henry Ruiz, Mrs. Harris, Kathleen Keeney, Scott Schlieder, Lt. R. Mauldin, Lt. Stearns (Stern), Lt. Fannucci, and Mr. Santiago are **DISMISSED**. The only claims remaining before the Court are

Plaintiff's equal protection claims against Defendants Vazquez, O'Neill, Cooksey, Erlewine, Van Balaan, McFadden, Kennedy, and Holt in their individual capacities.

SO ORDERED, this 10 day of September, 2008.


JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA